

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

KATHLEEN UNANGST,

Plaintiff,

-against-

EVANS LAW ASSOCIATES, P.C.,

Defendant.

1:10-CV-0740 (GLS/RFT)

**VERIFIED COMPLAINT and DEMAND  
FOR JURY TRIAL**

Plaintiff, Kathleen Unangst (Plaintiff), through her attorneys, Krohn & Moss, LTD., alleges the following against Defendant, Evans Law Associates, P.C. (Defendant):

Nature of the Action

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

Parties

2. Plaintiff is a natural person residing in Albany, Albany County, New York.
3. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
4. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
5. Defendant is a collection agency with a business office in Buffalo, New York.
6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

Jurisdiction and Venue

7. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
8. Defendant conducts business in the state of New York, and therefore, personal jurisdiction is established.
9. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.
10. Declaratory relief is available pursuant to *28 U.S.C. 2201* and *2202*.

Factual Allegations

11. Defendant places collection calls several times per week to Plaintiff seeking and demanding payment for an alleged debt.
12. Defendant called Plaintiff at her work, despite being told not to call Plaintiff at her work.
13. Defendant threatened to garnish Plaintiff’s wages, but has not done so.
14. Defendant threatened to take legal action against Plaintiff, but has not done so.
15. Defendant failed to identify itself as a debt collector in subsequent communications.

Claim for Relief

16. Defendant violated the FDCPA based on the following:
  - a. Defendant violated *§1692c(a)(1)* of the FDCPA by communicating with Plaintiff in connection with the collection of a debt at a time or place known or which should be known to be inconvenient to Plaintiff.
  - b. Defendant violated *§1692c(3)* of the FDCPA by calling Plaintiff at her job even though Defendant knew, because Plaintiff told Defendant, that Plaintiff’s employer did not allow her to receive calls at work.

- c. Defendant violated §1692d of the FDCPA by engaging in conduct that the natural consequences of which was to harass, oppress, and abuse Plaintiff in connection with the collection of an alleged debt.
- d. Defendant violated §1692d(5) of the FDCPA when Defendant caused Plaintiff's telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.
- e. Defendant violated §1692e of the FDCPA by using false, deceptive, and misleading representations in connection with the collection of any debt.
- f. Defendant violated §1692e(4) of the FDCPA threatening to garnish Plaintiff's wages even though Defendant did not intend to take such action.
- g. Defendant violated §1692e(5) of the FDCPA threatening to take legal action against Plaintiff even though Defendant did not intend to take such action.
- h. Defendant violated §1692e(10) of the FDCPA by using false and deceptive means in an attempt to collect a debt.
- i. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the communication was from a debt collector.

WHEREFORE, Plaintiff, Kathleen Unangst, respectfully requests judgment be entered against Defendant, Evans Law Associates, P.C., for the following:

- 17. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,
- 18. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,

19. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,  
*15 U.S.C. 1692k*, and

20. Any other relief that this Honorable Court deems appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiff, Kathleen Unangst, demands a jury trial in this cause of action.

Dated: April 6, 2010

KROHN & MOSS, LTD.

By: /s/ Adam T. Hill  
Adam T. Hill , Bar Roll #515619  
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Attorney for Plaintiff

**VERIFICATION**

STATE OF NEW YORK )

:ss.:

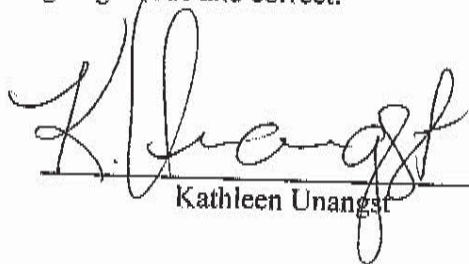
COUNTY OF ALBANY )

Plaintiff, Kathleen Unangst, being duly sworn, deposes and says:

1. I am the Plaintiff in this civil proceeding;
2. I have read the foregoing Verified Complaint prepared by my attorneys and I believe that all of the facts contained therein are true and correct, to the best of my knowledge, and formed after reasonable inquiry;
3. I believe that this civil Complaint is well ground in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law;
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it;
6. Each and every exhibit I have provided to my attorneys, which has/have been attached to this Complaint, is/are true and correct copy(s) of the original(s); and
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated the exhibit(s), except that some of the attached may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, Kathleen Unangst, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 6/22/10

  
Kathleen Unangst